



**INFORMATION BULLETIN #95
INCOME TAX**

July 2016

(Replaces Bulletin #95 issued October 2015)
Effective Dates: July 1, 2016

SUBJECT: Hoosier Business Investment Tax Credit (HBI)
Hoosier Business Investment Tax Credit – Logistics (HBI-L)

REFERENCES: IC 6-3.1-26

DISCLAIMER: Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUMMARY OF CHANGES

Apart from nonsubstantive, technical changes, the bulletin is changed to incorporate statutory changes made by SEA 378-2016. The amendment specifies procedures for the recapture of the tax credit claimed when it is determined by the IEDC that the taxpayer is not compliant with provisions of the agreement. The amendment also provides that the IEDC will request the department to issue an assessment for the amount of previously allowed credits, and statutory penalty and interest.

QUALIFIED ENTITIES

A taxpayer is defined as an individual, a corporation, a pass-through entity, or another entity that has an adjusted gross income tax liability, a financial institution tax liability, or an insurance premium tax liability.

Pass-through entities are defined as S corporations, partnerships, trusts, limited liability companies, or limited liability partnerships. If a pass-through entity does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass-through entity is entitled to the credit.

QUALIFIED INVESTMENTS

The qualified investment is determined to be the amount of a taxpayer's expenditure in Indiana for any of the following items:

- Costs associated with the modernization or construction of facilities and equipment used for telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, finishing, distribution, transportation, or logistical distribution.
- Costs associated with the purchase of machinery, equipment, or special-purpose buildings used to make a motion picture or audio production. Motion picture or audio production includes a feature-length film, a video, a television series, a commercial, a music video, or an audio recording. The term also includes a corporate production for any combination of theatrical, television, or other media viewing or a television pilot.
- Expenditures for onsite infrastructure improvements and costs associated with retooling existing machinery and equipment. Costs associated with the construction of special-purpose buildings and foundations for use in the computer, software, biological sciences, or telecommunications industry are also qualified investments.
- Expenditures for a logistics investment, which means an expenditure for one or more of the following purposes:
 - Making an improvement to real property in Indiana that is related to constructing a new, or modernizing an existing, transportation or logistical facility.
 - Improving the transportation of goods on Indiana highways, but limited to upgrading terminal facilities, improving paved access to terminal facilities, adding new maintenance areas, or purchasing new shop equipment that has a useful life of at least 5 years.
 - Improving the transportation of goods by rail, but limited to upgrading or building mainline, secondary, yard, or spur trackage; upgrading bridges to obtain higher load-bearing capacity; upgrading or repairing grade crossings to increase visibility for motorists; upgrading fueling facilities; upgrading team track facilities; upgrading shop facilities; and upgrading or building passing lines or automated switches on a rail line.
 - Improving the transportation of goods by water, but limited to upgrading or replacing a permanent waterside dock, upgrading or building a new terminal facility, improving paved access to a waterborne terminal facility, and purchasing new equipment that has a useful life of at least 5 years.
 - Improving the transportation of goods by air, but limited to upgrading or building a new cargo building, apron, hangar, warehouse facility, or aircraft maintenance facility; improving paved access to a terminal or cargo facility; or upgrading a fueling facility.

- Improving warehousing and logistical facilities, but limited to upgrading warehousing facilities, including loading docks, fueling equipment, and fueling installations, and improving logistical distribution by purchasing new equipment such as picking modules; racking equipment; scanning or coding equipment; security equipment; temperature control and monitoring equipment; dock levelers; pallet levelers and inverters; conveyors; scales; packaging equipment; and moving, separating, sorting, and picking equipment.

Property that can be readily moved outside of Indiana is not a qualified investment. An expenditure for maintenance expenses is not a qualified logistics investment.

All qualified investments must be made by Dec. 31, 2020.

CREDIT CALCULATION

The credit may be calculated differently depending on whether the qualified investment is determined by the Indiana Economic Development Corporation (IEDC) to be a logistics investment. If the qualified investment is not a logistics investment, the amount of credit that can be claimed by a taxpayer for a taxable year is a percentage determined by the IEDC not to exceed 10% of the amount of the qualified investment made by the taxpayer during the taxable year.

If the investment is a qualified logistics investment, the amount of the credit may not exceed 25% of the amount of the qualified investment by the taxpayer during that taxable year. The amount of the qualified logistics investment is limited to the difference of:

- (A) the amount of the qualified investments made by the taxpayer during the taxable year; minus
- (B) 105% of the average annual qualified investments made by the taxpayer during the two taxable years immediately preceding the taxable year for which the credit is being claimed.

However, if the total of the qualified investments for the earlier year of the two-year average is zero and the taxpayer has not claimed the credit for a year that precedes that year, the taxpayer shall subtract only 105% of the amount of the qualified investments made during the taxable year immediately preceding the taxable year for which the credit is being claimed.

ADMINISTRATION OF THE CREDIT

Application

A taxpayer that proposes a project to create new jobs; increase wage levels; or, in the case of a logistics investment, substantially enhance the logistics industry by creating new jobs or preserving existing jobs, increasing wages, or improving the overall economy in Indiana shall apply to the IEDC before the taxpayer makes the qualified investment.

Amount of Credit

The IEDC shall certify the amount of the qualified investment that is eligible for a credit. The IEDC may grant a credit that is up to 10% of the amount of qualified investment directly attributable to expanding the workforce in Indiana. If the qualified investment is a qualified logistics investment, the credit that may be granted can be up to 25% of the qualified logistics investment. The maximum amount of credits that can be awarded in a state fiscal year is \$10,000,000 for a logistics investment, and \$50,000,000 for a non-logistics investment.

Claiming the Credit

A taxpayer claiming a credit is required to submit to the department a copy of the certificate of verification when claiming the credit on the tax return the taxpayer files. The certificate of verification shall be supplied to the taxpayer by the IEDC.

Carryforward of Credit

A taxpayer is allowed to carry forward an unused credit for the number of years determined by the IEDC but not to exceed nine consecutive taxable years, beginning with the taxable year after the taxable year in which the taxpayer makes the qualified investment.

The IEDC may, under written agreement, accelerate payment (at a discounted rate) of any unused excess tax credit certain taxpayers would be eligible to carry forward to a subsequent year. The total amount of accelerated tax credits that may be approved by the IEDC may not exceed \$17,000,000 in a state fiscal year.

Recapture of Credit

If the IEDC determines that a taxpayer has claimed a credit that the taxpayer is not entitled to because of the taxpayer's noncompliance with the requirements of the tax credit agreement, the IEDC after giving the taxpayer an opportunity to explain the noncompliance, shall notify the department of the noncompliance and request the department to impose an assessment on the taxpayer in an amount not to exceed the sum of any previously allowed credits together with interest and penalties required by statute.

Expiration and Time Limitation of Credit

The credit applies to qualified investments made for taxable years beginning after Dec. 31, 2003, and ending on or before Dec. 31, 2020. A credit for a qualified logistics investment applies to investments made for taxable years beginning after Dec. 31, 2013, and ending on or before Dec. 31, 2020. A taxpayer is not prevented from carrying forward an unused credit attributable to a qualified investment to a taxable year beginning after Dec. 31, 2020, for a qualified investment made before Jan. 1, 2021.

For further information concerning this tax credit, visit the IEDC at <http://iedc.in.gov>.



Andrew J. Kossack
Commissioner